

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

HILEMAN ENTERPRISES OF MICHIGAN,
INC. d/b/a STATEWIDE CLAIM SERVICE,
a Michigan corporation,

Plaintiff,

vs.

Case No. 2:09-cv-12916
Hon. George Caram Steeh

STATEWIDE CLAIMS, INC., a Michigan
corporation,

Defendant.

_____/

MacKinnon & Higgins, P.C.
By: Francis W. Higgins (P28111)
Attorneys for Plaintiff
2799 Coolidge Highway
Berkley, Michigan 48072
(248) 541-5575

_____ /

**ORDER FOR EXTENSION OF TIME FOR
SERVICE OF PROCESS AND FOR SUBSTITUTE
SERVICE BY POSTING AND MAILING**

Upon reading the verified motion of Plaintiff, Hileman Enterprises of Michigan, Inc. d/b/a Statewide Claim Service, for an extension of time for service of process and for substitute service on Defendant, Statewide Claims, Inc., by posting and mailing, it appearing that service of process cannot reasonably be made on Defendant's resident agent or any person in charge of Defendant's office or business establishment at 950 E. Nine Mile Road, Hazel Park, Michigan, and having

determined that Plaintiff has proposed another manner of service of process reasonably calculated to give Defendant actual notice of these proceedings and an opportunity to be heard, and having determined that Plaintiff has shown good cause for an extension of time for service of process for a period of sixty days, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the time for service of process is extended for a period of sixty days until January 20, 2010.

IT IS FURTHER ORDERED that Plaintiff shall cause a deputy sheriff, bailiff or court officer to post a copy of this order at 950 E. Nine Mile Road, Hazel Park, Michigan 48030, in the Theodore Levin U.S. Courthouse, Eastern District of Michigan, Detroit, Michigan, and in the Courthouse of the 43rd District Court, Hazel Park, Michigan, for three continuous weeks and the person who posts shall file a proof of posting.

IT IS FURTHER ORDERED that Plaintiff shall also mail to Defendant a copy of this order, together with a copy of the complaint and jury demand, by both ordinary mail and registered mail, return receipt requested, before the last week of posting, which shall be addressed to Defendant at 950 E. Nine Mile Road, Hazel Park, Michigan 48030, and 17111 West McNichols, Detroit, MI 48235.

IT IS FURTHER ORDERED that Defendant, Statewide Claims, Inc., shall within forty-five days of the date of this order, file its answer to the complaint and serve said answer on Francis W. Higgins, attorney for Plaintiff, Hileman Enterprises of Michigan, Inc. d/b/a Statewide Claim Service, whose address is 2799 Coolidge Highway, Berkley, Michigan, 48072, or take such other action as may be permitted by law or court rule.

Plaintiff, Hileman Enterprises of Michigan, Inc. d/b/a Statewide Claim Service (“Statewide Claim Service”) has filed a complaint in the above-referenced action against Defendant, Statewide

Claims, Inc., alleging *inter alia* that Defendant's unauthorized use in commerce of Statewide Claim Service's service mark or a mark confusingly similar to Statewide Claim Service's service mark constitutes service mark infringement under 15 U.S.C. § 1125(a), unfair competition and deceptive practices under Federal law, unfair competition and unjust enrichment under Michigan law, and a violation of the Michigan Consumer Protection Act, MCL §§ 445.901 *et seq.* Upon Defendant's failure to file and serve its answer to the complaint, as previously set forth in this order, or to take such other action as may be permitted by law or court rule, Plaintiff shall seek entry of a judgment:

A. Declaring that Defendant has infringed the service mark rights of Statewide Claim Service under 15 U.S.C. § 1125(a); has engaged in service mark infringement, unfair competition and unjust enrichment under Michigan law; and has violated the Michigan Consumer Protection Act, MCL §§ 445.901 *et seq.*

B. Declaring that Plaintiff is owner of the entire right, title and interest to the Statewide Claim Service service mark in the State of Michigan;

C. Requiring that Defendant, its agents, servants, employees, and all persons in active concert or participation with them be preliminarily and permanently enjoined from displaying, advertising, promoting, soliciting, selling or performing services using the Statewide Claim Service service mark, or any service mark confusingly similar thereto, or otherwise infringing upon Plaintiff's proprietary rights;

D. Ordering the impounding for destruction all of Defendants' written materials using or displaying marks confusingly similar to the Statewide Claim Service service mark;

E. Ordering an accounting of Defendant's profits and award Plaintiff its actual damages and increased damages for Defendant's willful violation of Plaintiff's rights;

F. Ordering that Plaintiff be awarded monetary relief in an amount to be fixed by the Court in its discretion as just, including:

(a) All profits received by Defendant from sales and revenues of any kind made as a result of its infringing actions; and

(b) All damages sustained by Plaintiff as a result of Defendant's acts or infringement, and that such damages be trebled pursuant to 15 U.S.C. § 1117;

G. Award Plaintiff punitive or exemplary damages under the common law for the willful and wanton nature of Defendant's acts equal to at least three times Plaintiff's actual damages and Defendant's profits; and

H. Award Plaintiff interest, costs and attorney fees.

Dated: October 6, 2009

S/George Caram Steeh

GEORGE CARAM STEEH

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on October 6, 2009, by electronic and/or ordinary mail.

S/Josephine Chaffee

Deputy Clerk